

## **§ 416.1062**

(ii) Title II initial processing time—49.5 days, and

(iii) Title XVI initial processing time—57.9 days.

[56 FR 11023, Mar. 14, 1991]

### **§ 416.1062 What support we will provide.**

Performance support may include, but is not limited to, any or all of the following:

(a) An onsite review of cases processed by the State agency emphasizing adherence to written guidelines.

(b) A request that necessary administrative measures be implemented (e.g., filling staffing vacancies, using overtime, assisting with training activities, etc.).

(c) Provisions for Federal personnel to perform onsite reviews, conduct training, or perform other functions needed to improve performance.

(d) Provisions for fiscal aid to allow for overtime, temporary hiring of additional staff, etc., above the authorized budget.

[56 FR 11024, Mar. 14, 1991]

#### **SUBSTANTIAL FAILURE**

### **§ 416.1070 General.**

After a State agency falls below two of three established threshold levels, one being performance accuracy, for two consecutive quarters, and after the mandatory performance support period, we will give the State agency a 3-month adjustment period. During this 3-month period we will not require the State agency to meet the threshold levels. Following the adjustment period, if the State agency again falls below two of three threshold levels, one being performance accuracy, in two consecutive quarters during the next 12 months, we will notify the State that we propose to find that the State agency has substantially failed to comply with our standards and advise it that it may request a hearing on that issue. After giving the State notice and an opportunity for a hearing, if it is found that a State agency has substantially failed to make disability determinations consistent with the Act, our regulations, or other written guidelines, we will assume partial or complete respon-

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sibility for performing the disability determination function after we have complied with §§ 416.1090 and 416.1092.

[56 FR 11024, Mar. 14, 1991]

### **§ 416.1071 Good cause for not following the Act, our regulations, or other written guidelines.**

If a State has good cause for not following the Act, our regulations, or other written guidelines, we will not find that the State agency has substantially failed to meet our standards. We will determine if good cause exists. Some of the factors relevant to good cause are:

(a) Disasters such as fire, flood, or civil disorder, that—

(1) Require the diversion of significant personnel normally assigned to the disability determination function, or

(2) Destroyed or delayed access to significant records needed to make accurate disability determinations;

(b) Strikes of State agency staff or other government or private personnel necessary to the performance of the disability determination function;

(c) Sudden and unanticipated workload changes which result from changes in Federal law, regulations, or written guidelines, systems modification or systems malfunctions, or rapid, unpredictable caseload growth for a 6-month period or longer.

[56 FR 11024, Mar. 14, 1991]

### **§ 416.1075 Finding of substantial failure.**

A finding of substantial failure with respect to a State may not be made unless and until the State is afforded an opportunity for a hearing.

#### **HEARINGS AND APPEALS**

### **§ 416.1080 Notice of right to hearing on proposed finding of substantial failure.**

If, following the mandatory performance support period and the 3-month adjustment period, a State agency again falls below two of three threshold levels (one being performance accuracy) in two consecutive quarters in the succeeding 12 months, we will notify the State in writing that we will